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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,240	09/25/2003	Hiromichi Tanimukai	5854-29 (MTM-68-US)	8719
20575	7590	05/02/2006	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			PSITOS, ARISTOTELIS M	
			ART UNIT	PAPER NUMBER
			2627	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,240

Applicant(s)

TANIMUKAI, HIROMICHI

Examiner

Aristotelis M. Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The IDS of 2/17/04 and 3/23/06 have been reviewed. All documents, with the exception of 2003/165097 have been made of record. The Tseng/Yu document has not because it is not the correct identification (document #).

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations with respect to claims 2, 4, 5, 6, 7, 8 and 9 (along with the corresponding claims 11,12,13 and 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be

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notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 9 and 14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. As presented, this is a conclusion/wherein clause, but the examiner fails to see what further limit the judgment means in claim 5. Claim 14 is the corresponding method claim and falls accordingly. Further clarification is respectfully required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 6,7, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the evaluation predicated upon "the number of blocks"; however, there is no element positively recited that yields any recognition/detection of such. Hence it is not clear how this resultant function can occur.

Dependent claim 7 falls accordingly.

With respect to claim 8, the examiner is not certain as to what apparatus limitation this claim is attempting to include. Further elaboration is respectfully required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 3, 4, 11 and 8 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With respect to claim 3, this claim defines the particular predetermined value as a comparison between two time intervals. The time intervals are established at two different speeds, the second speed lower than the first. Nevertheless, the examiner cannot readily ascertain the details because as disclosed and claimed, since both time periods T1 and T2 are not only experimentally derived (as disclosed "is believed to be required" – hence purely speculative), but also a resultant time value not known in advance, since the number of interruptions are NOT KNOWN, nor is there a range of interruption values established.

Claims 4 and 11 refer to the ability of the judgment means to perform its evaluation predicated upon a predetermined time value. However, the examiner finds no support for establishing such or defining what this predetermined time is.

Claims 8 and 14 refer to an "increasing frequency" of the interruptions. However, the examiner fails to find clear support for such a criteria and its incorporation as defined by these claims.

As far as the claims recite positive limitations, the following rejections are made.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4, 10, 11, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamamoto.

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The following analysis is made:

Claim 1

Yamamoto

An optical disc drive

see abstract/title

capable of recording data received

from a host onto

a recordable optical disc at a recording

speed of any one of multiple recording

speed levels, the optical disc drive comprising:

storage means for temporarily storing

buffer memory - 9

the data received from the host;

consecutively recording means

present – see operation, resumption

which temporarily interrupts recording of

after interrupt/buffer underrun -

the data onto the optical disc in the case

where the data transfer from the host

cannot keep up with the recording process

and the data stored in the storage

means falls below a predetermined amount,

and then consecutively records the

remaining data from the end of the recorded

data in a substantially successive

manner when the storage means is filled

with data transferred from the host;

counting means for counting the number

see description of element 17, fig. 4

of recording interruptions

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performed by the consecutively recording means;

and

recording-speed adjustment means

see speed control ability, elements

for adjusting the recording speed for

18, 3,2,1

the optical disc in the case where the

count number by the counting means is

greater than a predetermined value.

In the above analysis, the Yamamoto reference discloses an optical rec/repr. system wherein during appropriate interruptions (buffer-under run) a evaluation is made with respect to a predetermined value. Appropriate speed control is performed subsequent thereto in accordance with this evaluation.

With respect to claims 2 & 3, such a speed reduction is disclosed and the establishing of the arguments T1 and T2 is considered present.

With respect to claim 4, the evaluation is performed during a predetermined time.

Method claims 10,11 and 12 parallel the limitations of apparatus claims 1,4 and 2 and fall accordingly.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 5,6,7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 13 as stated above, and further in view of Hanamoto et al.

With respect to a judgment means, and functions thereof, although there is a system controller 17, there is no clear depiction of a sudden cause.

Hanamoto et al discloses in this environment the ability of deciding whether a "shock" has occurred to generate the interruption.

It would have been obvious to modify the base system as relied upon above with respect to the independent claims and modify such with the above teaching from Hanamoto et al, motivation is to provide for a decision predicated upon a "shock" (interpreted as the claimed sudden cause) so as to include additional evaluation criteria.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by either Tseng et al or Chu.

Tseng et al discloses a method and apparatus for controlling the speed of recording in an optical rec/repro system predicated upon an evaluation of the number of interruptions vs. a predetermined #, time – see the discussion with respect to fig. 3. The appropriate steps of claim 10 are present.

The overall system uses an appropriate buffer – see col. 2 lines 62 plus. Hence the examiner concludes that the apparatus limitations of claim 1 are present as well.

Chu discloses a "write speed control" ability – see the title and abstract, wherein if the # of buffer underruns exceeds a certain value appropriate slow down occurs.

The examiner interprets the "empty" as indicative of buffer underruns, which in turn is analogous to the claimed "interruptions".

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4. Claims 2,3,4, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 10 as stated in paragraph 3 above, and further in view of Liang et al

With respect to claim 2, although the system to Tseng et al permits a decreasing of the write speed, there is no clear depiction that such is at the claimed 1 level lower.

Liang et al discloses in this environment the ability of reducing the systems speed by 1x –see the discussion with respect to figure 2, especially fig. 2c the noted “1x”. Such a control is predicated upon an error occurrence

It would have been obvious to modify the base system of either Tseng et al/Chu with the above teaching from Liang et al and provide for the lower of the speed by 1x.

With respect to claim 3, this claim attempts to define the pd. value as being established between a comparison of two time intervals. The time intervals being defined as recited in the claims.

As far as the examiner can ascertain, as the speed values are changed from original to 1x lower, the number of interruptions will decrease and hence this claim is met.

With respect to claim 4, this parallels the limitation of claim 2 and includes a time parameter criteria, i.e., the counting is performed within a predetermined time. Since the above system operates during the mode (recording), the examiner interprets such a limitation as being met by the duration/when the system is on, i.e., in operation and hence is met accordingly.

Claims 11 and 12 parallel the limitations of claims 4 2 and fall accordingly. Claim 12 does not require the time parameter criteria of claim 11 and therefore is interpreted as parallel the limitations of claim 2.

5. Claims 5,6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 10 as stated in paragraph 3 above, and further in view of Hanamoto et al.

Claim 5 introduces a “regular” and “sudden” cause criteria. In the above reference to either Tseng et al/or Chu, the regular cause is interpreted as the system operates.

Hanamoto et al teaches in this environment, the ability to detect a “shock” and provide for appropriate interruption and resumption of system operation.

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It would have been obvious to modify the base system of either Tseng et al/Chu with the above "shock" sensing capability and hence provide for the "regular" and "sudden" cause criteria.

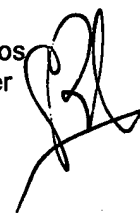
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-F: 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
Art Unit 2627



AMP